

EARTO Position Paper on Current Hurdles to Mobility of Researchers

28 July 2022

EARTO represents the interests of more than 350 Research and Technology organisations (RTOs) in more than 20 European countries. EARTO members represent more than 150.000 highly skilled researchers and engineers managing a wide range of innovation infrastructures. EARTO, as the representative of European RTOs, is strongly committed to improve international researcher mobility based on the European single market. **In 2019, EARTO already pointed out in an [open letter](#) the high bureaucratic requirements that exist due to EU Regulation 883/04/EC, the Enforcement Directive 2014/67/EU on the EU Posting of Workers Directive and due to the implementation of the EU Posting of Workers Directive 2018/957/EU. EARTO made suggestions to significantly improve the situation. Unfortunately, as of today, the situation has not improved, instead it worsened.** EARTO points out that if those hurdles are not treated carefully, they will hinder the European efforts to increase international researcher mobility, the strengthening of the European Research Area and the success of mobility instruments within the EU RD&I Programme Horizon Europe.

Today, EARTO specifically addresses and brings further recommendations regarding the following issues:

- A1 forms for business trips and other secondments,
- EU notification requirements and Equal Pay principle,
- Remote work from abroad, and
- Recognition of residence permits for mobile researchers.

1. Clarification and Amendment are needed regarding A1 forms for business trips (EU Regulation 883/04 and 987/09)

With regard to the regulation 883/04, we still strongly support the proposal that staff participating in short duration business trips (e.g. participations in consortium meetings, workshops, or conferences, up to 14 working days) are exempted from the need to apply for an A1-form or any other obligations such as notifications etc (Article 12). The administrative requirement to demand an A1 form for every single business trip is in clear contradiction with article 4 and recital 12 of the Enforcement Directive which clearly specifies that the competent authorities must make an overall assessment of all factual elements. Each element listed in article 4 is only indicative and cannot be used in isolation.

Accordingly, business trips should not be considered postings, this clarification is essential. This will facilitate the process for RTOs to send researchers to other Member States for business trips by **reducing the immense administrative burden linked to the A1 form.** Please note that part of those business trips is made with EU support thanks to the EU RD&I Funding Programme, such as Horizon Europe. Not allowing such exception for researchers would bring additional administrative burden to such EU RD&I programmes, while today the EC DG R&I is looking at simplification measure to reduce the administrative burden for its programme's beneficiaries.

2. EU notification requirements and Equal Pay principle (directives 2014/67/EU and 2018/957/EU)

International mobility of researchers is costly and administratively complex to set-up while they are highly relevant for co-creative research approaches, international scientific cooperation, professional exchange, and the development of young scientists through structured integration of research phases abroad. International mobility of researchers is general funded either by national or EU programmes. Accordingly, the European Commission defines and supports mobility¹ of researchers mainly in the context of Horizon Europe's Marie-Sklodowska-Curie Actions.

In parallel, the EU Posting of Workers Directive provides a binding framework within which each EU Member State/EEA/Switzerland had to implement the requirements regarding the

¹ See [EC website](#).

notification obligation for postings of employees. Since it is “only” a directive and not a regulation, there was and still is scope for design for the EU Member States/EEA/Switzerland. **As a result, there are major differences regarding the administrative process of the notifications.** First, there are no uniform standards as to when a business trip is a posting and not merely a (non-notifiable) business trip. Furthermore, in addition to the notification of the posted workers, some EU member states require the employment contract and other supporting documentation to be in the language of the EU member state (requiring translation then). The notification systems also vary widely in their user-friendliness. For example, while Belgium allows English-language notification, Greece requires notification in Greek. France demands in certain cases the designation of a person in France who can give information about the posting, the data, and documents of the employee to the French authorities. **This results in a high additional administrative workload, as individual case checks are necessary and, in most cases, not possible without the involvement of external service providers adding again extra administrative costs. In addition, in the event of non-compliance with these notification requirements, RTOs can face additional high administrative fines.**

Accordingly, practical solutions need to be found for RTOs to continue promoting and organising a smooth cross-borders mobility of researchers. **If a complete elimination of EU notification requirements within the EU is not possible, then uniform, standardized framework conditions throughout the EU regarding the notification requirements, as well as centrally retrievable information in the key European languages regarding the respective notification requirements are indispensable.**

Furthermore, the issue of **"equal pay, equal working conditions" (Equal Pay)** also poses major challenges when organising international mobility of researchers: it leads to considerable additional administrative work, high costs for service providers and complicated accounting procedures for RTOs. In case of long-term postings, an extensive and expensive examination is needed to detect differences in work settings of each individual Member State: working conditions, reward benchmarking, labour law, etc. On top of that, the organisations risk fines and - in some cases - even entry bans. For RTOs as researchers' employers, it is key to avoid legal uncertainty for their researchers while maintaining their international mobility.

In short, the implementation of the aforementioned EU directives is at odds with the current EU RD&I funding programme, especially in the Marie Skłodowska-Curie action, which are promoting longer-term stays abroad for researchers. The possibility for RTOs to actively participate into such MSCA actions is massively impaired by the administrative requirements arising from the above-mentioned regulations. **We therefore strongly suggest the publication of a clear interpretation note that will guarantee a consistent and uniform understanding of the difference between business trip and posting as well as the exemption of short duration business trips for up to 14 days from the need to apply for an A1 form. Furthermore, we request the exemption of any notifications obligations and of the requirements regarding the principle of Equal Pay in general for the research sector.**

3. Remote work from abroad

Remote work² from abroad is another complex issue, either for shorter periods or even permanently. For some research areas, it is no longer necessary for researchers to be physically (permanently) on site. Rather, many researchers can perform their work from anywhere in the world. Since the pandemic, this has also increasingly become a clear factor for international recruitment: it is considered an attractiveness factor and thus a competitive advantage in the cross borders' recruitment of talent and skilled researchers. However, **due to various tax and social security hurdles in the EU Member States regarding remote work, it is extremely difficult to meet this new expectation and find legally viable solutions for RTOs and the researchers they are ready to employ in a remote setting from abroad. This is a decisive obstacle to researcher mobility cross borders within the EU.**

Indeed, the approval of a regular activity in another EU Member State can only be granted after a complex examination of various topics (export control, IT security, taxes, labour / immigration law, social security, payroll accounting). It also generally involves the risk for the RTO of being seen as setting-up a permanent establishment abroad rather than hiring remote capabilities. Hiring a full-time remote a researcher based in another EU country is today not possible for RTOs due to lack of uniform pan-European basic conditions in social security. During the pandemic, cross borders mobility's obligation often contradicted with existing “home office obligations” for employees, especially for those, who have their permanent residence in another EU country due to for example proximity to a country's border. Today, the desire to be able to work remotely

² [Definition telework](#) (remote work)

from abroad remains for researchers, their employers like RTOs are searching for solutions. A new European framework is necessary to adapt to such change in employment of researchers.

Here, a new regulation on the part of the EU is needed in order to extend the regulations in Regulation (EU) 883/2004 on the coordination of social security systems to the effect that the social security regulations of the employer's country of domicile continue to apply to a home office activity even after the pandemic from another EU Member State. In addition, massive efforts are needed at international level on tax law: hiring researchers working permanently remotely in another EU Member States should not be seen as the equivalent of setting-up a permanent establishment by the employer in this Member States.

4. Recognition of residence permits for mobile researchers

Directive 2016/801³ gives a possibility for researchers with permits issued to work in another Member State during the validity of the permit by undertaking short-term⁴ or long-term⁵ mobility assignments. EARTO sees this as an excellent EU effort to promote international researcher mobility. It supports the dissemination of research results and their impact as well as researchers' career development. It also allows attracting non-EU talents in Europe.

Even though directive 2016/801 gives the possibility for researchers with permits issued to work in another Member State during the validity of the permit by undertaking short-term⁶ or long-term⁷ mobility assignments, according to a report from the European Migration Network⁸, EU cross borders' mobility remains very limited. For example, while Germany, the Netherlands, and Finland have clear national legislation on this, they have only a very limited number of cases showing use of this possibility. In practice, it is still necessary for each researcher to apply for a new corresponding permit when taking up employment in another member state. A mutual recognition of residence permits would help to avoid long waiting times at embassies and enable organisations to hire talent faster without extra administrative.

Accordingly, EARTO calls the EU Member States to implement the agreed procedure of the directive 2016/801 and to recognize a relevant residence permit issued by another Member State for a researcher without having to apply again for a second residence title for their own state. Without this, the European Charter & Code for Mobility of Researchers developed within the European Research Area, especially on the points "Valuing Mobility" as well as "Recognition of Qualifications" will not be met if such hurdles are not removed by a better implementation of the directive 2016/801 by EU Member States.

In summary, we hope that EU Institutions will take during the revision of the EU social security coordination rules, on the implementation of the Directive on posting of workers (notification requirements and equal pay) as well as on the rules and regulations around mobile work / home office abroad and residence permits for mobile researchers. EARTO and its HR Experts remain ready to provide additional input on this topic and are available for further discussion with EU institutions to ensure a successful pan-European mobility of researchers.

EARTO - European Association of Research and Technology Organisations

Founded in 1999, EARTO promotes Research and Technology Organisations and represents their interest in Europe. EARTO network counts over 350 RTOs in more than 32 countries. EARTO members represent 150.000 highly-skilled researchers and engineers managing a wide range of technology infrastructures.

RTOs - Research and Technology Organisations

From the lab to your everyday life. RTOs innovate to improve your health and well-being, your safety and security, your mobility and connectivity. RTOs' technologies cover all scientific fields. Their work ranges from basic research to new products and services' development. RTOs are non-profit organisations whose core mission is to produce, combine and bridge various types of knowledge, skills and infrastructures to deliver a range of research and development activities in collaboration with public and industrial partners of all sizes. These activities aim to result in technological and social innovations and system solutions that contribute to and mutually reinforce their economic, societal and policy impacts.

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³ [Directive 2016/801](#) on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing

⁴ [Short-term definition](#)

⁵ [Long-term definition](#)

⁶ [Short-term definition](#)

⁷ [Long-term definition](#)

⁸ European Migration Network (2022): [Attracting and retaining international researchers - EMN Inform.](#)